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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

CORA LUNDY,

Case No. _____

Plaintiff,

v.

COMPLAINT

Fair Debt Collection Practices Act

(15 U.S.C. § 1692)

DEMAND FOR JURY TRIAL

**LVNV FUNDING, LLC;
MACHOL & JOHANNES, LLC,**

Defendants.

JURISDICTION AND VENUE

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. §

1692k(d).

2. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").

3. Venue is proper in this District because the acts and transactions occurred in this district and Plaintiff resides here in Marion County, which is within this district.

PARTIES

4. Plaintiff Cora Lundy is a natural person who resides in the City of Salem, Oregon and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

5. Defendant, LVNV Funding, LLC (hereinafter "LVNV") is a Delaware Limited Liability Company that is not licensed to do business in the State of Oregon and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

6. Defendant, Machol & Johannes, LLC (hereinafter "Machol") is Colorado Limited Liability Company that is licensed to do business in the State of Oregon and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

7. Plaintiff obtained credit through GE Capital for which she made purchases for personal use.

8. Defendants allege that plaintiff defaulted on her debt to GE Capital.

9. Defendant LVNV acquired the right to collect from plaintiff after the debt to GE Capital was alleged to be in default.

10. Defendant LVNV employed Derrick McGavic (McGavic) to file suit against plaintiff for the debt it alleged plaintiff owed to GE Capital.

11. At all times relevant, plaintiff lived in Marion County, Oregon and has not lived in Polk

County, Oregon.

12. McGavic filed suit against plaintiff in Polk County; however, plaintiff was not served.

13. McGavic on behalf of LVNV obtained a default order and judgment in favor of LVNV and against plaintiff.

14. Without plaintiff's knowledge McGavic, on behalf of LVNV, applied for attorney fees which were not incurred by McGavic or LVNV and which were disallowed by the Polk County Circuit Court.

15. On or about April 2, 2013 Machol, in its initial communication to plaintiff, demanded a payment on behalf of LVNV in an attempt to collect from plaintiff.

16. On or about April 26, 2013 plaintiff wrote to Machol and disputed that she owed the debt, disputed that she was served the complaint, and requested that Machol provide a copy of the judgment entered in the Polk County proceeding.

17. On or about May 6, 2013 Machol provided plaintiff with a letter indicating the original creditor, account number, and other information, however, Machol refused to provide plaintiff a copy of the judgment entered against plaintiff.

18. On or about May 21, 2013 Machol issued a garnishment on the judgment entered in Polk County without providing plaintiff with a copy of the judgment.

19. After April 26, 2013 plaintiff learned that LVNV attempted to collect fees and costs that were not earned in the Polk County matter.

20. As a direct and proximate result of Defendants' actions, Plaintiff has suffered actual damages in the form of money paid that was not owed, emotional distress, anger, anxiety, worry, frustration, among other negative emotions.

TRIAL BY JURY

21. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. amend. 7.
Fed. R. Civ. Pro. 38.

CAUSES OF ACTION
COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT (LVNV)

15 U.S.C. § 1692 *et seq.*

22. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

23. The foregoing acts and omissions of LVNV constitute numerous and multiple violations of the FDCPA including, but not limited to, 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(2)(B), 1692e(10), 1692f(1), 1692i(a)(2) and 1692g(b).

24. As a result of Defendants violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

COUNT II

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT (MACHOL)

15 U.S.C. § 1692 *et seq.*

25. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

26. The foregoing acts and omissions of Machol constitute numerous and multiple violations

of the FDCPA including, but not limited to, 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(2)(B), 1692e(10), 1692f(1), 1692i(a)(2) and 1692g(b).

27. As a result of Defendants violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against each Defendant for:

- a) for an award of actual damages against each Defendant;
- b) for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against each defendant;
- c) for an award of costs of litigation and reasonable attorney's fees against each Defendant.
- d) for such other relief that the Court deems proper.

DATED: January 14, 2014

/s/ Keith D. Karnes
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